

LOCAL COMMENT: Fight telecom ruling to avoid return to high-cost monopoly

BY JOHN CONYERS

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There continues to be a policy debate raging in Washington on how best to promote competition in the local phone market, and the debate just ratcheted up a level.

To my dismay, the U.S. Court of Appeals for the D.C. Circuit recently overruled the Federal Communications Commission's rules that have succeeded in the last 8 years to promote competition in the local phone market.

Under rules enacted by Congress and implemented by federal and state agencies, regional Bell phone companies are required to lease to competitors access to the local phone network at reasonable wholesale rates to enable competitors to offer local service to consumers. For competition to thrive, it is unrealistic and unfair to ask competitors to replicate the multibillion-dollar, ratepayer subsidized local network built over the past one hundred years, though that is what the Bell companies would have them do.

The truth is, if we deny competitors access to the existing phone network and force them to build their own before offering local service, we are likely to suffer a swift return to the old days of monopoly phone service and higher rates.

In adopting this line of argument, the D.C. Circuit disregards the mandate by Congress to ensure that competitors have access to the legacy monopoly phone networks, in order to promote better service and lower prices for consumers. Thus far, these policies have worked to the benefit of American families and small businesses.

The open access regime created by Congress as part of the Telecommunications Act of 1996 has been a boon to consumers and small businesses. Nationally, consumers save more than \$10 billion annually -- more than \$400 per household -- on their local phone service. Moreover, small businesses are expected to save more than \$6 billion on their phone expenses in 2004.

In Michigan alone, nearly 1.4 million consumers have abandoned the local monopoly for an alternative

phone service provider. These choices have brought local consumers hundreds of millions of dollars in annual savings. This tremendous savings is a boon for Michigan, and the nation, as these monies are reinvested in the economy via the purchase of goods, services, business expansion and job creation.

At a time when the incumbent phone giants are automating their networks and laying off workers, competitive phone companies have offset that job decline by providing an alternative means for growth and investment. In fact, competitive phone companies have added 150,000 jobs to the U.S. economy since the passage of the federal Telecommunications Act of 1996 -- with more than 5,000 of those new jobs created in Michigan.

And competition continues to spur investment with competitors investing more than \$150 billion nationwide.

Unfortunately, the D.C. Circuit Court's recent decision has jeopardized these tremendous benefits. The uncertainty today in the telecom sector now falls squarely at the feet of an activist D.C. Court, a court with a long history of producing anti-competitive rulings that favor monopolies at the expense of consumers. In the past, thankfully, the U.S. Supreme Court has prudently overturned these ill-advised, lower-court rulings to preserve phone competition. Try as it might, the D.C. Circuit cannot change the intent of Congress.

In order to stimulate competition in any monopoly market, there is a need to remove the monopoly's control of the bottleneck. It was the removal of this bottleneck that allowed vigorous competition in the wireless market -- not less regulation. This is why, after the Bell companies assumed control of the local network upon the breakup of old Ma Bell, Congress devised alternative methods for competitors to access these bottlenecks by requiring the Bells to provide access at reasonable rates until competition fully takes hold. Unfortunately, the D.C. Circuit Court instructed the FCC to ignore this federal requirement for competitive market entry.

If the D.C. Circuit Court is allowed to eliminate the FCC's pro-competitive rules, it will be consumers, small businesses and the national economy that will pay the price. For these reasons, the court's decision must be appealed to the Supreme Court.

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